

MDL 1570 PLAINTIFFS' EXECUTIVE COMMITTEES

In re: Terrorist Attacks on September 11, 2001 (S.D.N.Y.)

Plaintiffs' Executive Committee for Personal Injury and Death Claims	Plaintiffs' Executive Committee for Commercial Claims
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Andrew J. Maloney III, <i>Co-Liaison Counsel</i> KREINDLER & KREINDLER LLP Robert T. Haefele, <i>Co-Liaison Counsel</i> MOTLEY RICE LLC	J. Scott Tarbutton, <i>Liaison Counsel</i> COZEN O'CONNOR

VIA ECF

December 23, 2019

The Honorable George B. Daniels
United States District Court
Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
New York, NY 10007

RE: *In Re: Terrorist Attacks on September 11, 2001*, 03 MDL 1570 (GBD) (SN)

Dear Judge Daniels:

On October 15, 2019, the Second Circuit Court of Appeals issued its decision remanding claims against Al Rajhi Bank for jurisdictional discovery. Thereafter, on December 5, 2019, the Second Circuit issued an order denying Al Rajhi Bank's Petition for Panel Rehearing or Rehearing En Banc, after which the Court's Mandate issued on December 13, 2019. On December 19, 2019, Al Rajhi Bank filed a motion requesting that this Court proceed to decide Al Rajhi Bank's earlier-filed Rule 12(b)(6) motion to dismiss for failure to state a claim under the Anti-Terrorism Act ("ATA") prior to permitting jurisdictional discovery. ECF Nos. 5384-5385. The motion raises issues relating to the appropriateness of proceeding to the Rule 12(b)(6) arguments without conducting the jurisdictional discovery ordered by the Second Circuit and resolving the jurisdictional question in the first instance, and presents substantive arguments relating to Plaintiffs' ATA claims based on decisions that have issued since briefing on Al Rajhi Bank's August 21, 2017 motion to dismiss, including the Second Circuit's underlying decision remanding the claims.

Following the filing of Al Rajhi Bank's motion, the parties conferred concerning a briefing schedule and structure for Plaintiffs' opposition and Al Rajhi Bank's reply brief. In order to enable Plaintiffs to file a single, consolidated opposition brief, and given the range of issues to be addressed, the parties jointly propose the following schedule and structure for further briefing:

Honorable George B. Daniels

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- (1) February 7, 2020 – Deadline for Plaintiffs to file a single, consolidated opposition brief with a 35-page limitation.
- (2) March 4, 2020 – Deadline for defendant Al Rajhi Bank to file a reply brief with a 20-page limitation.

In proposing this schedule, Plaintiffs are reserving all arguments with respect to the motion, including that the motion itself is procedurally improper and that discovery should proceed while the motion is pending.

Respectfully submitted,

COZEN O'CONNOR

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*On behalf of the MDL 1570 Plaintiffs' Exec.
Committee for Commercial Claims*

cc: The Honorable Sarah Netburn (via ECF)
All Counsel of Record (via ECF)